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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,436	01/23/2004	Kris A. Weger	ZSI 0106 PUS	6828
22045	7590	02/16/2006	EXAMINER	
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			FERGUSON, MICHAEL P	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/763,436

Applicant(s)

WEGER ET AL.

Examiner

Michael P. Ferguson

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1 and 3-20 is/are pending in the application.  
4a) Of the above claim(s) 4-12, 19 and 20 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1, 3 and 13-18 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 24 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 1, 2006 has been entered.

### ***Election/Restrictions***

2. Claims 4-12, 19 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 29, 2005.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3, 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 (line 2) recites "wherein the cylindrical members... make direct contact with... the support channel". Claim 1 (line 1) recites "An adjustable clamp assembly... comprising: a unitary first clamp half... ; a unitary second clamp half... ; an attachment region... ; and a fastener". It is unclear as to whether the cylindrical members and the

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support channel are being positively claimed within the assembly, or if the cylindrical member and support channel are merely intended use within the claims.

Claim 14 (line 2) recites "wherein the cylindrical members... are secured to the support channel". Claim 13 (line 1) recites "An adjustable clamp assembly... comprising: a first clamp half... ; a second clamp half". It is unclear as to whether the cylindrical members and the support channel are being positively claimed within the assembly, or if the cylindrical member and support channel are merely intended use within the claims.

Claim 15 (line 1) recites "wherein the first end of each clamp half comprise a neck and shoulders for cooperating with the support channel". Claim 13 (line 1) recites "An adjustable clamp assembly... comprising: a first clamp half... ; a second clamp half". It is unclear as to whether the support channel is being positively claimed within the assembly, or if the support channel is merely intended use within the claims.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1,3 and 13-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Dunklee (US 3,419,942).

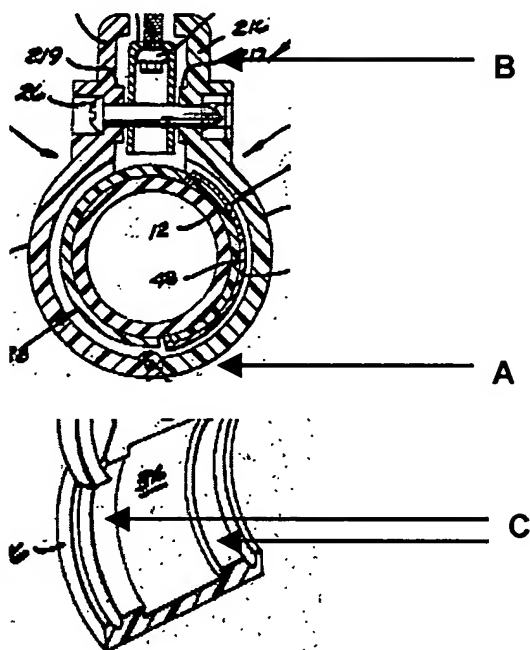
As to claim 1, Dunklee discloses an adjustable clamp assembly capable of securing cylindrical members **12** having variously sized outer diameters to an elongate U-shaped support channel **38**, the clamp assembly comprising:

a unitary first clamp half **16** formed from plastic having a first end **A** (Figure 2 reprinted below with annotations) capable of being slidably engaged to a support channel, a second end **B** spaced apart from the channel, and an adaptable inner surface capable of mating engagement with cylindrical members having variously sized outer diameters;

a unitary second clamp half **18** formed from plastic having a corresponding first end **A** capable of being slidably engaged to a support channel, a corresponding second end **B**, and an inner surface opposing the first clamp half inner surface, an attachment region formed at the second end of each of the first and second clamp halves for coupling the first and second clamp halves together; and

a fastener **22** cooperating with the first and second clamp half attachment regions to effectuate fastening engagement between the first and second clamp halves;

wherein the adaptable inner surface of each clamp half comprises a plurality of grip bumps **C** (Figure 3 reprinted below with annotations) projecting radially inward to provide size adjustment capability for cylindrical members having variously sized standard outer diameters (Figures 1-3).



As to claim 3, Dunklee discloses an adjustable clamp assembly wherein the cylindrical members 12 having variously sized standard outer diameters make direct contact with at least the support channel 38, one of the plurality of grip bumps C of the first clamp half 16, and one of the plurality of grip bumps C of the second clamp half 18 (Figure 2).

As to claim 13, Dunklee discloses an adjustable clamp assembly capable of securing cylindrical members 12 having variously sized standard outer diameters to an elongate U-shaped support channel 38, the clamp assembly comprising:

a first clamp half 16 having a first end A capable of being slidably engaged with a support channel along a channel axis, a second end B spaced apart from the channel, and an adaptable inner surface having a plurality of grip bumps C projecting radially inward for mating engagement with cylindrical members having variously sized standard outer diameters;

a second clamp half **18** having a corresponding first end **A** capable of being slidably engaged with the support channel along the channel axis, a corresponding second end **B**, and an adaptable inner surface opposing the first clamp half inner surface having a plurality of grip bumps **C** projecting radially inward for mating engagement with cylindrical members having variously sized standard outer diameters, each clamp half having an attachment region formed at the second end for coupling the first and second clamp halves together (Figures 1-3).

As to claim 14, Dunklee discloses an adjustable clamp assembly wherein the cylindrical members **12** having variously sized standard outer diameters are secured to the support channel **38** by at least three contact points, the at least three contact points comprising one of the plurality of grip bumps **C** of the first clamp half **16**, one of the plurality of grip bumps **C** of the second clamp half **18**, and the support channel **38** (Figure 2).

As to claim 15, Dunklee discloses an adjustable clamp assembly wherein the first end of each clamp half **16,18** comprise a neck and shoulders (interdigitated hinge fingers) for cooperating with the support channel **38** to effectuate sliding engagement (Figure 1).

As to claim 16, Dunklee discloses an adjustable clamp assembly wherein the attachment region of each clamp half **16,18** comprises an aperture for partially inserting a fastener **26** therethrough to couple the first clamp half **16** to the second clamp half **18** (Figure 2).

As to claim 17, Dunklee discloses an adjustable clamp assembly wherein the fastener **26** comprises a nut and bolt assembly (Figure 2).

As to claim 18, Dunklee discloses an assembly wherein the first clamp half aperture includes a boss for housing a nut, the boss having a detent formed therein for snap fit retention of the nut, the second clamp half aperture having a finger for retaining a bolt **26** (Figure 2).

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1,3 and 13-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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02/08/06



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